



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MOP/168980

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to Medical Assistance, a hearing was held on November 18, 2015, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner must repay an overpayment of medical assistance that occurred because she did not tell the county agency that her income had increased.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [Redacted]

Douglas County Department of Human Services
1316 North 14Th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Dunn County.
2. The county agency seeks to recover \$1,301 in BadgerCare Plus benefits the petitioner received from November 1, 2014, through June 30, 2015.

3. The federal poverty level in 2014 for a one-person household was \$972 per month.
4. The petitioner's income increased to over \$972 in September 2014.
5. The petitioner continued to receive BadgerCare Plus benefits from November 1, 2014, through June 30, 2015.
6. From November 1, 2014, through June 30, 2015, the department paid \$1,301 in capitation fees on behalf of the petitioner.

DISCUSSION

The department may recover any overpayment of medical assistance that occurs because the recipient failed report income that would have affected her benefits. Wis. Stat. § 49.497(1). Adults cannot receive BadgerCare Plus, Wisconsin's medical assistance program for those who are not disabled or elderly, if their countable income exceeds 100% of the federal poverty level. Wis. Stat. § 49.471(4)(a). In 2014, this limit was \$972 for a one-person household, the size of the petitioner's. The county agency seeks to recover \$1,301 in benefits provided to her from November 1, 2014, through June 30, 2015, because she did not report that her income exceeded the program's limit.

Recipients must report relevant changes in income within 10 days. Wis. Admin. Code, § DHS 104.02(6). The county agency notified the petitioner on June 16, 2014, that she must report if her income exceeded \$972. She concedes that her income exceeded this amount in September 2014 and that she did not report the change. If she had reported the change within 10 days of when she started working, her benefits would have been affected the month after she reported it, or no later than November 2014, the first month the agency seeks to recover the benefits.

The petitioner testified that she did not think that she needed to report the change because she did not use the program after her income increased. Her assumption is incorrect because the state still incurs a monthly capitation fee on behalf of all recipients. There is no exception to the overpayment rules that waives recovery from those who did not act intentionally. Rather the question is whether a recipient failed to report information that she was required to report, and the petitioner did not. The amount that can be recovered from a recipient who should not have ineligible consists of her capitation rate plus any medical claims the state paid on her behalf. *BadgerCare Plus Handbook*, § 28.4.2. The state did not pay any medical claims on the petitioner's behalf but it did pay \$1,301 in capitation fees on her behalf from November 1, 2014, through June 30, 2015, because of her failure to report her increase in income. It correctly seeks to recover this amount.

CONCLUSIONS OF LAW

The petitioner must repay the capitation fees the department paid on her behalf during the period she incorrectly remained eligible for BadgerCare Plus because she failed to report a change of income.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of December, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on December 7, 2015.

Douglas County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability